

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 10440 of 2007(P)

PETITIONER:

A.ANSHAD, AGED 30,
S/O.SHEIKH ABDUL RAWTHER, ASHRAF MANZIL,
KARAPUZHA.

BY ADV. SRI.M.NARENDRA KUMAR

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY SECRETARY, MINISTRY OF LOCAL
AFFAIRS, SECRETARIAT, TRIVANDRUM.
2. KOTTAYAM MUNICIPALITY,
REPRESENTED BY ITS SECRETARY.
3. SHIBU THOMAS,
NEDIYA PARAMBIL, VADAVATHOOR, KOTTAYAM.
4. VARGHESE THOMAS,
KONATHUPARAMBIL,
KANHIKUZHI, KOTTAYAM.

R2 BY ADV. SRI.SIBY MATHEW

SRI.A.A.MOHAMMED NAZIR

R1 BY ADV. SRI. K.J. MOHAMMED ANSAR, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/03/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 10440 OF 2007

Dated this the 30th day of March, 2007

JUDGMENT

Even though notice on 3rd and 4th respondents, the successful bidders, was served by special messenger, neither of them have entered appearance. The 2nd respondent-Municipality alone enters appearance through its Standing Counsel, Mr.Siby Mathew.

2. Mr.M.Narendra Kumar, counsel for the petitioner has placed before me the information which was supplied to the petitioner by the Municipality itself pursuant to a request submitted under the Right to Information Act. The information will show that the cheques which were issued by respondents 3 and 4 upon the auction being confirmed in their favour were dishonoured by bankers on the reason that there was no funds in the drawer's account. My attention was drawn by Mr.Narendra Kumar to Clauses 10 and 13 of Ext.P1 auction conditions. It is clear that the Secretary of the Municipality has violated the above conditions in receiving cash belatedly tendered by respondents 3 and 4 and in confirming the auction in their favour.

Under these circumstance, the Writ Petition will stand allowed and the auction held on 15.02.2007 as per Ext.P1 in so far as it pertains to respondents 3 and 4 is quashed and there will be a direction to the 2nd

respondent-Municipality to conduct a fresh auction to the beef and meat stalls at Thirunakkara and Kanjikuzhi (which were previously confirmed in favour of respondents 3 and 4) strictly in accordance with Ext.P1. Fresh auction shall be conducted by the Municipality at the earliest and at any rate within one month of receiving copy of this judgment.

PIUS C. KURIAKOSE, JUDGE

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